

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CLIFFORD C. MARSDEN and MING XU,  
Individually And On Behalf Of All Others  
Similarly Situated,

Plaintiffs,

v.

SELECT MEDICAL CORP., MARTIN  
JACKSON, ROBERT A. ORTENZIO, ROCCO  
ORTENZIO, AND PATRICIA RICE,

Defendants.

CIVIL ACTION NO.  
2:04-cv-4020 (JCJ)

**MOTION PURSUANT TO RULE 23(e) OF THE FEDERAL RULES OF CIVIL  
PROCEDURE FOR PRELIMINARY APPROVAL OF SETTLEMENT**

TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law, the Stipulation and Agreement of Settlement (the “Stipulation”) and the exhibits thereto, and all prior proceedings had herein, Lead Plaintiffs Capital Invest, die Kapitalanlagegesellschaft der Bank Austria Creditanstalt Gruppe GmbH (now known as Pioneer Investments Austria) for account of its funds C 43 and GF 5, James Shaver, and Frank C. Bagatta (the “Class Representatives”), by and through their attorneys, hereby move the Court, the Honorable J. Curtis Joyner, presiding, for an order granting preliminary approval of the proposed settlement of this putative securities class action.

WHEREFORE, the Class Representatives respectfully request that the Court enter an Order substantially in the form of the proposed Preliminary Order for Notice and Hearing In

Connection With Settlement Proceedings, annexed hereto as Exhibit 1. A copy of the Stipulation and exhibits is annexed hereto as Exhibit 2.

The Class Representatives do not request oral argument. This motion has been discussed with Defendants' Counsel and they do not oppose this motion and are in full agreement with the text of the proposed Order (which conforms with the proposed Order appended to the Stipulation). A Memorandum in Support follows.

If the Court would like to discuss any of the terms of the Stipulation or the scheduling of the remaining proceedings, we will be pleased to appear before the Court, in person or by telephone, at the Court's earliest convenience. Otherwise, the parties to the Stipulation jointly respectfully request that the Court enter the proposed Preliminary Order for Notice and Hearing In Connection With Settlement Proceedings.

DATED: November 14, 2008

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